Delaware, seven other Northeast and Mid-Atlantic states seek to curb pollution from upwind states

File petition with EPA requiring action from upwind states

DOVER – With Delaware at the forefront, eight Northeast and Mid-Atlantic States today petitioned the U.S. Environmental Protection Agency (EPA) to require upwind states to reduce air pollution generated within their borders, which causes asthma, respiratory disease, and other public health problems downwind.

The multi-state action is aimed at requiring nine upwind states – Illinois, Indiana, Kentucky, Michigan, North Carolina, Ohio, Tennessee, Virginia, and West Virginia – to reduce air pollution emissions that are carried by prevailing winds and contribute to the formation of ozone to the north and east. The petition seeks long-overdue commitments from the upwind states to protect the health of downwind residents and to level the playing field for businesses.

"Delaware's air quality remains overwhelmed by air pollution from upwind states – even though we have reduced emissions within Delaware of ozone-forming pollution by more than 70 percent since 1990," said Governor Jack Markell. "While Delaware's in-state sources are well-controlled with state-of-the-art technology, this is simply not true of our upwind neighbors. As a result, Delaware pays more for healthcare resulting from respiratory illnesses and our industries are forced to do more than those in the states causing the pollution, and that's simply unfair. We need a level playing field among states to ensure that all states can enjoy healthy

air."

The petition cites decades of inaction by the upwind states during which time the eight Mid-Atlantic and Northeastern states have spent tens of billions of dollars to reduce their own air emissions. The petition asks EPA to require the nine upwind states to join them in what is known as the "Ozone Transport Region" (OTR). Under the federal Clean Air Act, states added to the OTR would have to take actions consistent with the air pollution efforts of the downwind states through use of readily available control technologies and reliance on cleaner fuels to generate power.

States filing the petition – all current members of the OTR – are: Delaware, Connecticut, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont.

"Delaware has made great strides in cleaning up its own air pollution; but unfortunately, Delaware – along with other Northeast states – is located at the end of what I call 'America's tailpipe,'" said U.S. Senator Tom Carper. "Other states' dirty emissions from cars and power plants drift east, causing pollution that Delaware cannot stop or regulate. At the end of the day, downwind states can only do so much without the cooperation and investment of upwind states. EPA has tried to implement new policies that would make all states be good clean air neighbors – but right now these policies are delayed in our court system. As we wait for a final decision, downwind states continue to suffer. Bringing in additional upwind states into the Ozone Transport Region is something the EPA Administrator can do now while we wait for a broader approach. It makes good sense and ensures cleaner air for downwind states like Delaware – which is why I hope the EPA Administrator will consider such a proposal."

"Pollution doesn't just hurt the public's health, but the health of our state's economy," said U.S. Senator Chris Coons. "Upwind states' reluctance to invest in the necessary

pollution controls imposes on Delaware's ecosystem and forces Delawareans to absorb additional health care costs. These upwind states should act as good neighbors by integrating existing available pollution control technology, and utilize cleaner fuels to reduce the emissions crossing into Delaware."

"Delaware has made significant progress in transitioning to a cleaner energy economy. With the state, residents, and private businesses working together, Delaware's dirtiest coal-fired burners have either been shut down or improved with pollution controls that significantly reduce the amount of toxins they produce. The results have been dramatic – better air quality and a reduced risk of Delawareans developing chronic health problems," said U.S. Congressman John Carney. "But we can't control the pollutants that pass over Delaware from the states to our west. These states are upwind of us and rely on the power they obtain from one of the dirtiest energy sources: coal. It's time for these states to step up and make the investments in cleaner energy that have been so productive here in Delaware. The health of current and future generations of Americans in this region depends on it. I'm hopeful they will make progress on a healthier, cleaner environment in the near future."

"Clean air matters and we are petitioning EPA because Delaware and our sister downwind states are in the world-turned-upside-down position of paying to import air pollution," said DNREC Secretary Collin O'Mara. "More than 90 percent of the air pollution that comes into Delaware is produced by outside sources. Meanwhile, those outside sources – most of them in the upwind states – aren't paying our health care bills, or paying for improvements to our air quality, as Delaware's industrial sector and power plants have done through adopting cleaner fuels, installing state of the art pollution controls, and building new low- and zero-emission generation. Instead we continue to pay – literally through the nose, as in respiratory illnesses and breathing problems such as asthma –

for what other states send our way in the form of pollution and ozone transport. We're asking the EPA that cleaner air for Delawareans – and for all Americans in upwind or downwind states – be an equitable fight and a fair-share responsibility."

Ozone is created in the atmosphere by a reaction of volatile organic compounds (VOCs) and nitrogen oxides (NOx), and all non-trivial Delaware sources that emit VOC and NOx are well-controlled. In fact, Delaware has reduced statewide VOC and NOx emissions each by about 70 percent since 1990 – ranking the state among the highest in the country at having achieved emissions reductions.

Meanwhile, reducing emissions has improved the state's air quality considerably. Since 1990 Delaware has attained the pervasive 0.12 parts per million (ppm) 1-hour ozone standard and the 0.080 ppm 8-hour ozone standard. However, New Castle and Sussex counties fail to meet the current federal ozone standard of 0.075 ppm, and further in-state emission reductions will not change this. Science has shown that more than 95 percent of Delaware's ozone problem is caused by emissions from outside of Delaware, and many of these emissions are completely uncontrolled. Delaware VOC and NOx emissions could be reduced to zero, and Delaware would still have unhealthy air so long as the state remains on the receiving end of upwind emissions. "The only thing that will fix our unhealthy air problem is to reduce emissions that are generated outside the borders of Delaware," said Ali Mirzakhalili, director, DNREC Division of Air Quality.

Under Section 176A of the federal Clean Air Act, states can petition the EPA to add any state to an air quality region such as the OTR if there is reason to believe it is the source of pollution causing violations of air quality standards elsewhere. The EPA Administrator is required to approve or disapprove of such a petition within 18 months.

In submitting the petition to EPA, the eight downwind states told EPA Administrator Gina McCarthy, “We believe expansion of the transport region and implementation of the required controls in upwind states are necessary for all of the OTR to achieve attainment in a timely manner. We also believe that the consultation process that is such an important part of the OTC’s activities can benefit all states in an expanded OTR in the assessment of the ozone transport problem and result in the development of effective solutions.”

Millions of residents in the downwind states petitioning EPA are exposed to unhealthy levels of ozone, which can irritate the respiratory system, causing coughing, throat irritation and chest pains and aggravating asthma and other chronic lung diseases. Ozone and other air pollutants have also been linked to premature death.

Despite aggressive actions taken by downwind states to reduce air pollution generated in-state, EPA modeling shows that interstate transport of air pollution contributes significantly to violations of health-based air quality standards for ground-level ozone within their borders. As much as 70 to 98 percent of this ozone air pollution problem is blown in from upwind states – and parts of some downwind states would remain in violation of federal standards even if they eliminated all of the pollution generated within their borders.

Industries and electric power plants in downwind states have invested heavily in pollution control technologies and additional emissions reductions would come from smaller sources at greater cost. The cost of removing an additional ton of pollution in downwind states is estimated at between $10,000 to $40,000 – compared to as little as $200-$500 a ton in upwind states, where even some basic control technologies have not been installed.